

T.V. Dispatch, Inc. and Barbara Jean Trefz, Priscilla Jane Shoop, and John Francis Kasper. Cases 18-CA-6227, 18-CA-6227-2, and 18-CA-6227-3

July 2, 1981

DECISION AND ORDER

On April 15, 1980, the National Labor Relations Board issued an order¹ adopting, in the absence of exceptions, the Decision of the Administrative Law Judge and directing Respondent, its officers, agents, successors, and assigns, *inter alia*, to offer reinstatement to and make whole Barbara Jean Trefz, Priscilla Jane Shoop, and John Francis Kasper for their losses resulting from Respondent's unlawful discrimination against them. On August 29, 1980, the United States Court of Appeals for the Eighth Circuit summarily enforced the Board's Order. A controversy having arisen over the amounts of backpay due the discriminatees, the Acting Regional Director for Region 18, on December 31, 1980, issued a backpay specification and notice of hearing. Respondent failed to file an answer to the specification.

On April 6, 1981, counsel for the General Counsel filed with the Board in Washington, D.C., a Motion for Summary Judgment. On April 10, 1981, the Board issued an order transferring the proceeding to the Board and a Notice To Show Cause why the General Counsel's Motion for Summary Judgment should not be granted. Respondent failed also to file a response to the Notice To Show Cause.

Upon the entire record in this proceeding, the Board makes the following:

Ruling on the Motion for Summary Judgment

Section 102.54 of the Board's Rules and Regulations, Series 8, as amended, provides in pertinent part as follows:

(a) . . . The respondent shall, within 15 days from the service of the specification, if any, file an answer thereto . . .

* * * * *

(c) . . . If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without notice to the respondent, find the specification to be true and enter such order as may be appropriate. . . .

The backpay specification, issued and served on Respondent on December 31, 1980, specifically states that Respondent shall, within 15 days from the service of the specification, file an answer to the specification with the Acting Regional Director for Region 18, and that, if the answer fails to deny the allegations of the specification in the manner required under the Board's Rules and Regulations, and the failure to do so is not explained, such allegations shall be deemed to be admitted to be true and Respondent shall be precluded from introducing any evidence controverting them.

According to the Motion for Summary Judgment, the Regional Director for Region 18 granted two successive requests by Respondent for 30-day extensions of time for filing an answer to the specification, extending such time to February 19 and then to March 19, 1981. The Motion for Summary Judgment further alleges that counsel for the General Counsel informed Respondent by letter on March 20 and 24, and the compliance officer for Region 18 notified Respondent's president orally on March 20, that a Motion for Summary Judgment would be filed unless Respondent filed an answer by March 27, 1981. Nevertheless, Respondent has not answered the specification, nor has it responded to the Board's Notice To Show Cause. Therefore, the allegations of the backpay specification and the Motion for Summary Judgment stand uncontroverted.

Accordingly, the Board finds the allegations as set forth in the backpay specification to be true, grants the General Counsel's Motion for Summary Judgment, and concludes that the net backpay due each discriminatee is as stated in the computations of the specification except for two inadvertent errors, which are hereby corrected.²

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, T.V. Dispatch, Inc., St. Louis Park, Minnesota, its officers, agents, successors, and assigns, shall make whole each of the discriminatees named below by payment to each of them of the amount specified as net backpay, with interest thereon to be computed in the manner prescribed in *Florida Steel Corporation*, 234 NLRB 1089 (1978),³ less the tax withholdings required by Federal and state laws:

² An arithmetical error was made in calculating net backpay for Barbara Jean Trefz in par. 7, sec. 1(d), of the specification: the sum of the quarterly amounts of net backpay is 6,940, not \$7,458. The net backpay listed for John Francis Kasper in par. 8, \$1,404, is incorrect. Kasper's net backpay is as computed in par. 7 of the specification, \$1,221.

³ See, generally, *Iris Plumbing & Heating Co.*, 138 NLRB 716 (1962).

¹ Not published in Board volumes.

Barbara Jean Trefz	6,940.00
Priscilla Jane Shoop	527.00
John Francis Kasper	1,221.00